



June 19, 2008

Robert Carter
Box 1283
Corinth, VT 05039

Re: Jurisdictional Opinion #3-121, Corinth

Hello Bob:

This letter is in response to your request for a determination as to whether Act 250 jurisdiction attaches to your project of moving sand from one property to another and offering five lots for sale. As outlined below, it is my opinion that this does not require an Act 250 permit.

Background

1. You own many properties in Corinth and have not created any lots in Corinth or any other town in the State of Vermont.
2. You own a 4-acre abandoned gravel pit site off Route 25. The gravel is gone leaving large piles of sand. The gravel pit has not been operated commercially since around 1968. The pit was owned by Willard Martin and operated by Roger Martin, a former Corinth Road Agent, who used the gravel on town roads. Approximately 500 cubic yards of material was extracted annually during that time.
3. You also own a 10-acre parcel off the south side of Page Hill Road in Corinth. There have been no changes in the lot size or shape since 1944.
4. You propose to haul approximately 3,000 cubic yards of sand from the Route 25 site to the Page Hill Road site to create an adequate entrance for future division of the property into five lots to be sold to others. Others will develop the lot(s).
5. The sand is not be sold or gifted to anyone. The sand is all yours and will be used on your own properties. You will hire a truck to deliver the sand and will pay for the trucking. There will be no bartering or exchange of services for the sand.
6. The "Soil Survey of Orange County, Vermont", published in June 1978 by the USDA Soil Conservation Service in cooperation with the Vermont Agency of Environmental Conservation and the Vermont Agricultural Experiment Station, on map sheet #20 indicates a gravel pit (G.P.) in the area of the four-acre tract. The map sheet is compiled on 1969 aerial photography.



Jurisdictional Opinion #3-121

June 19, 2008

Page 2

7. Corinth has not adopted permanent zoning and subdivision bylaws.

Laws and Rules

1. 10 V.S.A. § 6081 in part states that:

(a) No person shall sell or offer for sale any interest in any subdivision located in this state, or commence construction on a subdivision or development, or commence development without a permit.

2. "Development" is defined, in part, as:

The construction of improvements for commercial or industrial purposes on more than one acre of land within a municipality that has not adopted permanent zoning and subdivision bylaws. 10 V.S.A. § 6001(3)(A)(ii).

3. "Subdivision", in part, means a tract or tracts of land, owned or controlled by a person, which the person has partitioned or divided for the purpose of resale into ten or more lots within a radius of five miles of any point on any lot, or within the jurisdictional area of the same district commission, within any continuous period of five years. In determining the number of lots, a lot shall be counted if any portion is within five miles or within the jurisdictional area of the same district commission. . . "Subdivision" shall also mean a tract or tracts of land, owned or controlled by a person, which the person has partitioned or divided for the purpose of resale into six or more lots, within a continuous period of five years, in a municipality which does not have duly adopted permanent zoning and subdivision bylaws. 10 V.S.A. § 6001(19).

4. "Commercial purpose" means the provision of facilities, goods or services by a person other than for a municipal or state purpose to others in exchange for payment of a purchase price, fee, contribution, donation or other object or service having value. Act 250 Rule 2(C)(4).

Discussion

You are proposing to move approximately 3,000 cubic yards of sand off your 4-acre tract off Route 25 and place it on the 10-acre tract off Page Hill Road. The purpose is to provide a better entrance into the 10-acre tract so that you can offer five lots for sale to others. You will not be selling, gifting, bartering, or otherwise exchanging any sand or service with others for any other service of object having value.



Jurisdictional Opinion #3-121

June 19, 2008

Page 3

At the time that you acquired the 4-acre tract, the gravel pit had already been exhausted and abandoned and all that was left were piles of sand. There has been no commercial extraction of sand or gravel from the tract since around 1968 and you are not proposing any commercial extraction. Act 250 is not triggered by this activity for your own personal use.

Also, you have not created any lot anywhere in the Town of Corinth or in the district. You now propose to create five lots from the 10-acre tract off Page Hill Road, therefore, an Act 250 permit is not required by the creation of these lots.

Conclusion

The moving of sand from your 4-acre property to your non-contiguous 10-acre property and creating five lots does not require an Act 250 permit.

Sincerely,

Linda Matteson /s/

Linda Matteson
District 3 Coordinator

cc: Certificate of Service

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3(A).

Reconsideration requests are governed by Act 250 Rule 3(B) and should be directed to the district coordinator at the above address. Any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of issuance, pursuant to 10 V.S.A. Chapter 220. The appellant must attach to the Notice of Appeal the entry fee of \$225.00, payable to the State of Vermont. The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Center Building, Montpelier, VT 05620-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the VRECP.

For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The Environmental Court mailing address is: Environmental Court, 2418 Airport Road, Suite 1, Barre, VT 05641-8701. (Tel: 802-828-1660)



Natural Resources Board
Districts #2&3 Environmental Commission
100 Mineral Street, Suite 305
Springfield, VT 05156-3168

